

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

JUAN LOZADA-LEONI §

Plaintiff, §

v. §

MONEYGRAM INTERNATIONAL, INC. and §
MONEYGRAM PAYMENT SYSTEMS, INC. §

Defendants. §

Case No. 4:20-cv-00068-RWS-CMC

UNOPPOSED MOTION TO EXTEND DISCOVERY DEADLINE

Now Comes Plaintiff, Juan Lozada-Leoni, and moves the court and respectfully request that the discovery deadline set in the Second Amended Docket Control Order (Doc. 87) be extended until July 31, 2020. The extension will not affect the trial setting. Defendants' counsel do not oppose an extension.

1. The Plaintiff moves for an order extending the deadline set for the completion of two of the five remaining depositions. All five depositions have been set and noticed for dates in June 2020 prior to the expiration of the deadline. However, Sylvia Gil's deposition was moved to June 30th (1 day after the discovery deadline) by agreement of both sides.
2. Dana Johnson's deposition was scheduled for June 24, 2020. Ms. Johnson is an employee of SuperValu, who is not a party to this lawsuit. The Sunday prior to her deposition, Plaintiff's counsel received notice from Ms. Johnson's attorney that she had been in contact with a person who had tested positive for COVID 19 and would need to be in quarantine for two weeks. See Ex. 1. Subsequently, Ms. Johnson's attorney proposed July 7, 8 or 9 for the

rescheduling of her deposition. Plaintiff's counsel has agreed to July 8 or 9, but has not yet heard from Defendant's counsel on the specific dates for rescheduling (although Defendant's counsel has agreed to the postponement, see Ex. 2). Out of an abundance of caution, and not knowing specific availability at this time, Plaintiff has asked for an extension through July 31, 2020 should the additional time be necessary to accommodate Defendant's counsel.

3. The court may grant a request for an extension of time for "cause shown." FED. R. CIV. P. 6(b). Federal Rule of Civil Procedure 16(b)(4) provides that a scheduling order may only be modified "for good cause and with the judge's consent." The Fifth Circuit has explained that "[t]he good cause standard requires the 'party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.' " *S & W Enters., L.L.C. v. SouthTrust Bank of Ala.*, NA, 315 F.3d 533, 535 (5th Cir.2003). In other words, the party who seeks to modify a scheduling order deadline must show that, despite acting diligently, it will still be unable to meet that deadline. *Hernandez v. Mario's Auto Sales, Inc.*, 617 F. Supp. 2d 488, 492 (S.D. Tex. 2009). The parties have been diligent in pursuing these depositions in this case but there have been a number of factors imposing delay as set forth below.

4. The parties do not seek to extend the discovery deadline for all reasons and asks only for the amount of time necessary to reschedule Ms. Johnson and accommodate all schedules.

WHEREFORE, the parties pray that the Court grant this Motion and enter the Order to Extend the Discovery Deadline to allow the parties to depose Sylvia Gil and Dana Johnson.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on June 22, 2020, a true and correct copy of the above and foregoing document was served on the following attorneys of record by delivery to each of them via facsimile transmission:

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s/Susan E. Hutchison
Susan E. Hutchison

CERTIFICATE OF CONFERENCE

Plaintiff's counsel conferred with Defendants' counsel (Please See Exhibits). They are not opposed to this motion.

s/Susan E. Hutchison
Susan E. Hutchison